

Executive Summary – Enforcement Matter – Case No. 43375

City of O'Donnell

RN101918548

Docket No. 2012-0396-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - MSW, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of O'Donnell WWTP, located immediately west of the intersection of U.S. Highway 87 and Farm-to-Market Road 2053, Lynn County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 7, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$26,988

Amount Deferred for Expedited Settlement: \$5,397

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$626

Total Due to General Revenue: \$20,965

Payment Plan: 35 payments of \$599 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 13, 2011

Date(s) of NOE(s): December 22, 2012

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City of O'Donnell
RN101918548
Docket No. 2012-0396-MLM-E

Violation Information

1. Failed to employ or contract a wastewater treatment facility operator holding the appropriate level of license [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TCEQ Permit No. WQ0011126001 Special Provisions No. 2].
2. Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures. Specifically, the Facility's lift stations are not equipped with an electrical quick connect to receive power from the back up generators [30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(5) and TCEQ Permit No. WQ0011126001 Operational Requirements No. 4].
3. Failed to conduct, at a minimum, annual calibration of the flow meter used to measure flow to the land application area [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011126001 Monitoring Requirements No. 5].
4. Failed to submit liner certifications for the storage ponds and facultative lagoon. Specifically, the Respondent has not submitted liner certification documents for the two storage ponds and facultative lagoon at the Facility [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011126001 Special Provisions No. 13].
5. Failed to timely submit the annual soil sampling report for the land application area by September 30, 2011 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011126001 Special Provisions No. 10].
6. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, significant erosion was noted along the water line of the irrigation holding pond and the pond did not have a minimum freeboard of two feet [30 TEX. ADMIN. CODE § 305.125(1) and 305.125(5) and TCEQ Permit No. WQ0011126001 Operational Requirements No. 1 and Special Provisions No. 11].
7. Failed to secure the collection system lift stations. Specifically, Lift Station No. 1, located at 13th Street and Bladrige; Lift Station No. 2, located at 10th Street and Standefer; and Lift Station No. 3, located at 9th Street and Nassau; were not surrounded by intruder-resistant fencing and the hatches to the wet wells were unlocked and unsecured [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011126001 Operational Requirements No. 1].
8. Failed to obtain authorization prior to storing, processing, removing, or disposing of any municipal solid waste. Specifically, an estimated 7,500 cubic feet of municipal solid waste, consisting of tree limbs, mattresses, children's toys, and construction waste, were being stored at the Facility [30 TEX. ADMIN. CODE § 330.9(a)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective actions:

- a. On December 16, 2011, contracted with Republic Services to remove and properly dispose of MSW from the Facility; and
- b. By January 12, 2012:
 - i. Submitted the 2011 annual soil sampling report for the land application area; and
 - ii. Secured the hatches to the wet wells at Lift Station Nos. 1, 2, and 3.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 15 days, ensure a properly certified operator operates the Facility at least five days per week.
- b. Within 30 days:
 - i. Begin conducting, at a minimum, annual calibration of the flow meter used to measure flow to the land application area; and
 - ii. Submit the liner certification for the storage ponds and facultative lagoon.
- c. Within 45 days, submit written certification of compliance with Ordering Provisions a., b.i., and b.ii.
- d. Within 60 days:
 - i. Repair all eroded sections of the irrigation holding pond and maintain a minimum freeboard of two feet; and
 - ii. Install intruder resistant fencing at Lift Station Nos. 1, 2, and 3.
- e. Within 75 days, submit certification of compliance with Ordering Provisions d.i. and d.ii.
- f. Within 90 days, provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.

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g. Within 105 days, submit certification of compliance with Ordering Provision f.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Scott Martinez, Mayor, City of O'Donnell, P.O. Box 236,
O'Donnell, Texas 79351
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Jan-2012	Screening	12-Jan-2012	EPA Due	
	PCW	19-Jan-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of O'Donnell		
Reg. Ent. Ref. No.	RN101918548		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43375	No. of Violations	8
Docket No.	2012-0396-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$26,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$1,300
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Notes: Enhancement for one NOV with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$312
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2,889
Approx. Cost of Compliance: \$54,375
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$26,988
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$26,988
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$26,988
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DEFERRAL	20.0% Reduction	Adjustment	-\$5,397
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$21,591
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Screening Date 12-Jan-2012

Docket No. 2012-0396-MLM-E

PCW

Respondent City of O'Donnell

Policy Revision 3 (September 2011)

Case ID No. 43375

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918548

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

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PCW

Respondent City of O'Donnell

Policy Revision 3 (September 2011)

Case ID No. 43375

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918548

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 30.350(d) and 305.125(1) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0011126001 Special Provisions No. 2

Violation Description

Failed to employ or contract a wastewater treatment facility operator holding the appropriate level of license, as documented during an investigation conducted on December 13, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the date of the investigation (December 13, 2011) to the date of screening (January 12, 2012).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$861

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$24,000	13-Dec-2011	31-Aug-2012	0.72	\$861	n/a	\$861

Notes for DELAYED costs

Estimated delayed cost to hire a licensed operator. Date required is the date of the investigation. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$24,000

TOTAL

\$861

Screening Date 12-Jan-2012
Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

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PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 305.125(5) and TCEQ Permit No. WQ0011126001 Operational Requirements No. 4

Violation Description

Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, as documented during an investigation conducted on December 13, 2011. Specifically, the Facility's lift stations are not equipped with an electrical quick connect to receive power from the back up generators.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the date of the investigation (December 13, 2011) to the date of screening (January 12, 2012).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$754

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$15,000	13-Dec-2011	31-Aug-2012	0.72	\$36	\$718	\$754
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to ensure the availability of adequate back up power to prevent an unauthorized discharge in the event of main power loss. Date required is the investigation date. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$754

Screening Date 12-Jan-2012

Docket No. 2012-0396-MLM-E

PCW

Respondent City of O'Donnell

Policy Revision 3 (September 2011)

Case ID No. 43375

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918548

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0011126001
Monitoring Requirements No. 5

Violation Description

Failed to conduct, at a minimum, annual calibration of the flow meter used to measure flow to the land application area, as documented during an investigation conducted on December 13, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$565

Violation Final Penalty Total \$788

This violation Final Assessed Penalty (adjusted for limits) \$788

Economic Benefit Worksheet

Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	1-Jan-2012	31-Aug-2012	0.67	\$17	n/a	\$17

Notes for DELAYED costs

Estimated delayed cost to calibrate the flow meter. Required date is the first date of the 2012 annual calibration period. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$500	1-Jan-2011	31-Dec-2011	1.92	\$48	\$500	\$548

Notes for AVOIDED costs

Estimated avoided cost to calibrate the meter. Required date is the first date of the 2011 annual calibration period. Final date is the last date of the 2011 annual calibration period.

Approx. Cost of Compliance

\$1,000

TOTAL

\$565

Screening Date 12-Jan-2012
Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro
Violation Number 4

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PCW

Policy Revision 3 (September 2011)
PCW Revision August 3, 2011

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0011126001 Special Provisions No. 13

Violation Description

Failed to submit liner certifications for the storage ponds and facultative lagoon, as documented during an investigation conducted on December 13, 2011. Specifically, the Respondent has not submitted liner certification documents for the two storage ponds and facultative lagoon at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

30 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

Three single events are recommended, one for each pond and lagoon.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	13-Dec-2011	31-Aug-2012	0.72	\$4	n/a	\$4

Notes for DELAYED costs

Estimated delayed cost to submit certification documentation to the TCEQ. Required date is the date of the investigation. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 12-Jan-2012

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PCW

Respondent City of O'Donnell

Policy Revision 3 (September 2011)

Case ID No. 43375

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918548

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0011126001 Special Provisions No. 10

Violation Description

Failed to timely submit the annual soil sampling report for the land application area by September 30, 2011, as documented during an investigation conducted on December 13, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$263

This violation Final Assessed Penalty (adjusted for limits) \$263

Economic Benefit Worksheet

Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	30-Sep-2011	12-Jan-2012	0.28	\$1	n/a	\$1

Notes for DELAYED costs

Estimated delayed cost to submit the annual soil sampling report to the TCEQ. Date required is the date the report was due. Final date is the date the report was submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1

Screening Date 12-Jan-2012

Docket No. 2012-0396-MLM-E

PCW

Respondent City of O'Donnell

Policy Revision 3 (September 2011)

Case ID No. 43375

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918548

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and 305.125(5) and TCEQ Permit No. WQ0011126001 Operational Requirements No. 1 and Special Provisions No. 11

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, as documented during an investigation conducted on December 13, 2011. Specifically, significant erosion was noted along the water line of the irrigation holding pond and the pond did not have a minimum freeboard of two feet.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the date of the investigation (December 13, 2011) to the date of screening (January 12, 2012).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$200

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

Economic Benefit Worksheet

Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	13-Dec-2011	30-Sep-2012	0.80	\$200	n/a	\$200
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to repair the erosion in the pond and ensure a minimum freeboard of two feet is maintained. Required date is the date of the investigation. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$200

Screening Date 12-Jan-2012
Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro
Violation Number 7

Docket No. 2012-0396-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0011126001
Operational Requirements No. 1

Violation Description

Failed to secure the collection system lift stations, as documented during an investigation conducted on December 13, 2011. Specifically, Lift Station No. 1, located at 13th Street and Bladrig; Lift Station No. 2, located at 10th Street and Standefer; and Lift Station No. 3, located at 9th Street and Nassau; were not surrounded by intruder-resistant fencing and the hatches to the wet wells were unlocked and unsecured.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

30 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three monthly events are recommended, one for each lift station, from the date of the investigation (December 13, 2011) to the date of screening (January 12, 2012).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$504

Violation Final Penalty Total \$11,813

This violation Final Assessed Penalty (adjusted for limits) \$11,813

Economic Benefit Worksheet

Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media Water Quality
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$9,000	13-Dec-2011	30-Sep-2012	0.80	\$24	\$480	\$504
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to secure the lift stations (\$3,000/lift station). Required date is the date of the investigation. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$9,000

TOTAL

\$504

Screening Date 12-Jan-2012
Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2012-0396-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 330.9(a)

Violation Description

Failed to obtain authorization prior to storing, processing, removing, or disposing of any municipal solid waste, as documented during an investigation conducted on December 13, 2011. Specifically, an estimated 7,500 cubic feet of municipal solid waste, consisting of tree limbs, mattresses, children's toys, and construction waste, were being stored at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

3 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One monthly event is recommended from the investigation date (December 13, 2011) to the date of compliance (December 16, 2011).

Good Faith Efforts to Comply

25.0% Reduction

\$312

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent returned to compliance by December 16, 2011.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,001

This violation Final Assessed Penalty (adjusted for limits) \$1,001

Economic Benefit Worksheet

Respondent City of O'Donnell
Case ID No. 43375
Reg. Ent. Reference No. RN101918548
Media Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$175	13-Dec-2011	16-Dec-2011	0.01	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to remove and properly dispose of municipal solid waste. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$175

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN600655294 City of O'Donnell Classification: AVERAGE Rating: 0.50

Regulated Entity: RN101918548 CITY OF O'DONNELL Classification: AVERAGE Site Rating: 0.50

ID Number(s): WASTEWATER WASTEWATER LICENSING PERMIT LICENSE WQ0011126001 WQ0011126001

Location: located immediately west of the intersection of United States Highway 87 and Farm-to-Market Road 2053 in Lynn County, Texas

TCEQ Region: REGION 02 - LUBBOCK

Date Compliance History Prepared: January 13, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 13, 2007 to January 13, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Steve Villatoro Phone: (512) 260-7158

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 02/07/2008 | (617113) |
| 2 | 03/10/2009 | (737788) |
| 3 | 02/22/2010 | (792853) |
| 4 | 04/07/2010 | (798233) |
| 5 | 06/28/2010 | (828491) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/26/2010 (792853) CN600655294

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Special Provision 3 PERMIT

Description: Failure to maintain the influent flow meter in an operational condition.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(a)

Description: Failure to maintain Lift Station Number 1 (13th Street and Baldrige), Lift Station Number 2 (10th Street and Standefer), and Lift Station Number 3 (9th Street and Nassau) in an intruder resistant manner.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF O'DONNELL
RN101918548**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-0396-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of O'Donnell ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located immediately west of the intersection of United States Highway 87 and Farm-to-Market Road 2053 in Lynn County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 27, 2012.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of Twenty-Six Thousand Nine Hundred Eighty-Eight Dollars (\$26,988) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Twenty-Six Dollars (\$626) of the administrative penalty and Five Thousand Three Hundred Ninety-Seven Dollars (\$5,397) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twenty Thousand Nine Hundred Sixty-Five Dollars (\$20,965) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Ninety-Nine Dollars (\$599) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that the Respondent has implemented the following corrective actions at the Facility:
 - a. On December 16, 2011, contracted with Republic Services to remove and properly dispose of MSW from the Facility; and
 - b. By January 12, 2012:
 - i. Submitted the 2011 annual soil sampling report for the land application area; and
 - ii. Secured the hatches to the wet wells at Lift Station Nos. 1, 2, and 3.
11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
12. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to employ or contract a wastewater treatment facility operator holding the appropriate level of license, in violation of 30 TEXAS ADMIN. CODE §§ 30.350(d) and 305.125(1) and TCEQ Permit No. WQ0011126001 Special Provisions No. 2, as documented during an investigation conducted on December 13, 2011.
2. Failed to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(5) and TCEQ Permit No. WQ0011126001 Operational Requirements No. 4, as documented during an investigation conducted on December 13, 2011. Specifically, the Facility's lift stations are not equipped with an electrical quick connect to receive power from the back up generators.
3. Failed to conduct, at a minimum, annual calibration of the flow meter used to measure flow to the land application area, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011126001 Monitoring Requirements No. 5, as documented during an investigation conducted on December 13, 2011.
4. Failed to submit liner certifications for the storage ponds and facultative lagoon, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011126001 Special Provisions No. 13, as documented during an investigation conducted on December 13, 2011. Specifically, the Respondent has not submitted liner certification documents for the two storage ponds and facultative lagoon at the Facility.
5. Failed to timely submit the annual soil sampling report for the land application area by September 30, 2011, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011126001 Special Provisions No. 10, as documented during an investigation conducted on December 13, 2011.
6. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(5) and TCEQ Permit No. WQ0011126001 Operational Requirements No. 1 and Special Provisions No. 11, as documented during an investigation conducted on December 13, 2011. Specifically, significant erosion was noted along the water line of the irrigation holding pond and did not have a minimum freeboard of two feet.
7. Failed to secure the collection system lift stations, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011126001 Operational Requirements No. 1, as documented during an investigation conducted on December 13, 2011. Specifically, Lift Station No. 1, located at 13th Street and Bladrig; Lift Station No. 2, located at 10th Street and Standefer; and Lift Station No. 3, located at 9th Street and Nassau; were not

surrounded by intruder-resistant fencing and the hatches to the wet wells were unlocked and unsecured.

8. Failed to obtain authorization prior to storing, processing, removing, or disposing of any municipal solid waste, in violation of 30 TEX. ADMIN. CODE § 330.9(a), as documented during an investigation conducted on December 13, 2011. Specifically, an estimated 7,500 cubic feet of municipal solid waste, consisting of tree limbs, mattresses, children's toys, and construction waste, were being stored at the Facility.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of O'Donnell, Docket No. 2012-0396-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order, ensure a properly certified operator operates the Facility at least five days per week, in accordance with 30 TEX. ADMIN. CODE § 30.350(d) and TCEQ Permit No. WQ0011126001, Special Provisions No. 2;
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Begin conducting, at a minimum, annual calibration of the flow meter used to measure flow to the land application area, in accordance with TCEQ Permit No. WQ0011126001 Monitoring Requirements No 5; and
 - ii. Submit the liner certification for the storage ponds and facultative lagoon, in accordance with TCEQ Permit No. WQ0011126001 Special Provisions No. 13;

- c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a, 2.b.i, and 2.b.ii. The certification shall be in accordance with Ordering Provision No. 2.h below;
- d. Within 60 days after the effective date of this Agreed Order:
 - i. Repair all eroded sections of the irrigation holding pond and maintain a minimum freeboard of two feet, in accordance with TCEQ Permit No. WQ0011126001 and Special Provisions No. 11; and
 - ii. Install intruder resistant fencing at Lift Station Nos. 1, 2, and 3.
- e. Within 75 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision Nos. 2.d.i and 2.d.ii. The certification shall be in accordance with Ordering Provision No. 2.h below;
- f. Within 90 days after the effective date of this Agreed Order, provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures, in accordance with TCEQ Permit No. WQ0011126001, Operational Requirements No. 4;
- g. Within 105 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.f. The certification shall be in accordance with Ordering Provision No. 2.h below; and
- h. The written certification of compliance required by Ordering Provisions Nos. 2.c, 2.e and 2.g shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davis
For the Executive Director

2/26/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Scott Martinez
Signature

12-12-2013
Date

Scott Martinez
Name (Printed or typed)
Authorized Representative of
City of O'Donnell

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.